



Federal Communications Commission
Washington, D.C. 20554

DA 05-2482
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1800E3-JLB

WLNY-TV Inc.
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Suite 300
1920 N Street, N.W.
Washington, D.C. 20036-1622

Re: WLNY-TV, Riverhead, New York
Facility ID No. 73206

Dear Licensee:

On July 12, 2005, WLNY-TV, Inc. (WLNY), the licensee of analog television station WLNY-TV, NTSC Channel 55, and permittee of digital television station WLNY-DT, DTV Channel 57, Riverhead, New York, filed a letter requesting Commission authority to: (i) cease analog broadcasting on NTSC Channel 55 and surrender its license for the channel prior to the end of the DTV transition period; and (ii) thereafter operate WLNY-DT as a single channel, digital-only television station on DTV Channel 57. WLNY's proposal appeared on public notice on July 20, 2005.

In its *Report and Order* in GN Docket No. 01-74, the Commission adopted the reallocation of the 598-746 MHz Spectrum Band (television channels 52-59) from use by television broadcasters to new use on a flexible basis.¹ The Commission also stated that it would consider requests by incumbent broadcasters on channels 52-59 to voluntarily vacate their NTSC channels prior to the end of the DTV transition on a case-by-case basis, considering all relevant public interest factors.²

In support of its request to voluntarily vacate NTSC Channel 55, WLNY states, first, that it is one of only 17 television licenses with two paired out-of-core channels, and that the Commission has permitted such licensees extra flexibility in choosing how to operate during the transition period. In the *Second Periodic Review*, the Commission ruled that these licensees have the option to elect to operate only on their analog channel, surrender their out-of-core DTV channel, and "flash cut" to digital on their

¹ *Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59)*, 17 FCC Red 1022 (2002).

² *Id.* at 1096. The Commission identified a number of relevant factors, including whether grant of the request would make new or expanded wireless services available to consumers or deploy wireless service to underserved areas, or whether grant would result in the loss of any of the four stations in the DMA with the largest audience share, the loss of sole service licensed to the local community, or the loss of a community's sole noncommercial educational television service. The Commission will also consider whether a grant would have a negative effect on the pace of DTV transition in that market. *Id.* at n.549.

eventual in-core DTV channel assignment at the end of the transition.³ In this case, WLNY seeks to cease operating in dual formats by terminating its analog, rather than digital operations, an approach which it asserts better serves the public interest than continuing its analog operations. According to WLNY, its analog service reaches 3,855,201 persons within a 5,502 square kilometer area and its current WLNY-DT STA service reaches 3,104,183 persons within a 4,652 square kilometer area. Although WLNY, as a licensee with two out-of-core channels, is under no obligation to build its maximized DTV facility, it pledges to do so within 12 months after finality of the grant of its band-clearing request, which will result in service to 5,081,440 persons within a 7,270 square kilometer area. In addition, no areas or populations will lose service from WLNY-DT from the result of this conversion to its maximized facility.

With respect to other public interest factors the Commission considers in evaluating band-clearing requests, WLNY-TV is not among the “top four” stations in the New York market. WLNY also asserts that as a licensee with two out-of-core channels, its pledge to build its maximized DTV facility on its remaining channel will have a positive effect on the pace of the DTV transition in the market. Most importantly, grant of WLNY’s request will make new or expanded wireless services available to consumers.

In support, WLNY submits a letter from QUALCOMM Incorporated (QUALCOMM), which holds licenses for channel 55 (Block D in the Lower 700 MHz band) covering the entire nation. According to QUALCOMM, granting WLNY’s request will allow MediaFLO USA, Inc., a wholly-owned subsidiary of QUALCOMM, to deploy and operate a network to offer a “mediacast” service to deliver many channels of multimedia content to third generation wireless phones, using “forward link only” or “FLO” technology developed by QUALCOMM. QUALCOMM anticipates that MediaFLO network service will initially provide up to 15 live streaming video program channels, numerous video “clip cast” channels in which subscribers can choose video clips to watch, and numerous audio channels. QUALCOMM also intends that the network will also carry local programming and core public interest program content such as breaking news, weather, and public affairs, as well as maintain network capability to disseminate emergency alert information, in both visual, including textual, and auditory form. QUALCOMM further states that the “FLO” technology offers distinct efficiency and cost advantages in delivering content to a large mobile subscriber base, as compared to cellular and higher-frequency based systems.

While the early return of its NTSC channel will result in loss of the sole over-the-air analog service authorized to Riverhead, WLNY contends that the impact on the public will be imperceptible, given the cable penetration rate in the DMA.⁴ WLNY further states that it will request cable operators to initially carry WLNY-DT’s over-the air digital signal in an analog format, and provide the cable operators with the conversion equipment necessary to translate the station’s over-the-air signal from digital to analog. In addition, WLNY notes that over 99% of potential viewers within its analog Grade B contour already receive service from at least five other full service television stations, and the small number of households that receive only three (331 households) or four (5,810 households) over-the-air signals are located along the southern edge of Eastern Long Island in an area commonly referred to as “The

³ *Second Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*, 19 FCC Rcd 18,279, 18,321-22 (2004).

⁴ Nielson Media Research reports that in July 2005, the total cable and/or ADS penetration rate for the New York DMA was 92.2% of TV Households. Television Bureau of Advertising Online, DMA Household Universe Estimates, http://www.tvb.org/nav/build_frameset.asp?url=/localnumbers/current_ads.asp (reporting Nielson results.)

Hamptons.” Because this community primarily consists of seasonal homes, WLNY states that it is unlikely that these households rely solely on an over-the-air signal

Based upon the foregoing, we believe the public interest would be served by permitting WLNY to surrender its license for NTSC Channel 55, Riverhead, New York, and commence digital operations on DTV Channel 57. Accordingly, WLNY’s request IS GRANTED. Moreover, prior to discontinuing analog service and surrendering its NTSC license, we expect WLNY to supply all cable systems carrying its digital signal with the conversion equipment necessary to translate WLNY-DT’s signal to an analog signal.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau